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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,354	06/30/2004	Masayo Higashiyama	2004_1016A	2612
513 7590 07/02/2012 WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503				
EXAMINER				
FRAZIER, BARBARA S				
ART UNIT		PAPER NUMBER		
1611				
NOTIFICATION DATE		DELIVERY MODE		
07/02/2012		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com  
coa@wenderoth.com

<p align="center"><b><i>Applicant-Initiated Interview Summary</i></b></p>	<b>Application No.</b> 10/500,354	<b>Applicant(s)</b> HIGASHIYAMA, MASAYO	
	<b>Examiner</b> BARBARA FRAZIER	<b>Art Unit</b> 1611	

All participants (applicant, applicant's representative, PTO personnel):

- |                             |                              |
|-----------------------------|------------------------------|
| (1) <u>BARBARA FRAZIER.</u> | (3) <u>Andrew Freistein.</u> |
| (2) <u>David Blanchard.</u> | (4) <u>Warren Cheek.</u>     |

Date of Interview: 26 June 2012.

Type:    ☐ Telephonic    ☐ Video Conference  
☒ Personal [copy given to: ☐ applicant    ☐ applicant's representative]

Exhibit shown or demonstration conducted:    ☐ Yes    ☒ No.  
 If Yes, brief description: \_\_\_\_\_.

Issues Discussed    ☐101    ☐112    ☐102    ☒103    ☐Others  
 (For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: 1,3,5-10 and 12-14.

Identification of prior art discussed: Kita, Lehmuessari, Arkari (US 2003/0139436).

**Substance of Interview**

(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

See Continuation Sheet.

**Applicant recordation instructions:** The formal written reply to the last Office action must include the substance of the interview. (See MPEP section 713.04). If a reply to the last Office action has already been filed, applicant is given a non-extendable period of the longer of one month or thirty days from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview

**Examiner recordation instructions:** Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

☐ Attachment

/B. F./  
 Examiner, Art Unit 1611

/DAVID J BLANCHARD/  
 Supervisory Patent Examiner, Art Unit 1619

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135 (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicants discussed data in the specification (notably, Example 1 and Table 1, page 8 of specification) in support of their position of the criticality of the claimed range of amounts for water-soluble metal chloride. Examiner noted that, while the data does present evidence of nonobviousness in the form of a critical range of amounts, the evidence is not sufficient to outweigh the prima facie case of obviousness, given that the range of amounts now claimed sufficiently overlaps that of Lehmussari that one skilled in the art would still arrive at such a range by the explicit suggestion of Lehmussari as well as routine experimentation, and would be motivated to do so for reasons stated in the previous Office action (see pages 3-4 of Office action mailed 11/30/11), and such amounts would necessarily be a light-stabilizing effective amount, absent evidence to the contrary. Examiner and Applicants also discussed arguments related to additional advantages or latent properties, and comparison with closest prior art, including discussions of MPEP 2145 and MPEP 716.01, 716.02. Applicants also discussed the teachings of Lehmussari which require the presence of a Carbopol polymer, which undergoes light degradation, as evidenced by the abstract presented by Applicants (Examiner suggests Applicants submit this reference as part of an IDS for proper consideration). Examiner notes new claim 14 appears to remove Lehmussari as a reference, and further consideration will be given to independent claims 1 and 13 which limit liquid preparation or eye drop to "consisting essentially of" recited components. Examiner also noted the Arkari reference will be considered as possible relevant prior art. Applicants noted a supplemental response might be filed; Examiner will delay action until response is received (or communication that no response will be filed). An agreement was not reached with respect to the claims.